

IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF MULTNOMAH

FARES RUSTOM,

Plaintiff,

v.

ACE AMERICAN INSURANCE
COMPANY, a Pennsylvania corporation; and
CHUBB INSURANCE SOLUTIONS
AGENCY INC., a Delaware corporation,

Defendants.

Case No.

COMPLAINT

(Breach of Contract; Violation of ORS
742.061)

PRAYER: \$800,000.00

Filing Fee: ORS 21.160 (\$560)

NOT SUBJECT TO MANDATORY
ARBITRATION

JURY TRIAL REQUESTED

Plaintiff Fares Rustom (“Rustom”) alleges as follows:

PARTIES

1.

At all times material, Rustom resided in Multnomah County, Oregon.

2.

Ace American Insurance Company (“Ace”) is a Pennsylvania corporation engaged in property and casualty insurance in the State of Oregon. Chubb Insurance Solutions Agency Inc. (“Chubb”) is a Delaware corporation engaged in insurance business in the State of Oregon. On

information and belief, Ace or its affiliate acquired Chubb (and its affiliates) and now operates

Page 1 – COMPLAINT

GARVEY SCHUBERT BARER, P.C.
eleventh floor
121 s.w. morrison street
portland, oregon 97204-3141
503 228 3939

1 under the name Chubb. Hereinafter, “Insurer” will refer to the Defendants either individually or
2 collectively.

3 **FACTS**

4 3.

5 On or about May 31, 2013, Rustom purchased a 62.8 foot Navigator Yacht (the
6 “Vessel”). On the same date, Ace issued a Yachtsman Policy (“Policy”) to Rustom insuring the
7 Vessel against property damage, including, amongst other things, property damage caused by a
8 latent defect.

9 4.

10 The Vessel suffered extensive damage as a result of a latent defect. The Vessel’s damage
11 includes water damage to the forward state room, bulkhead, deterioration of wood and cabinets,
12 and deterioration of the foredeck, including to the balsa core and the foredeck settee.

13 5.

14 On or about June 8, 2017, a claim was submitted to the Insurer in regard to the Vessel.
15 The claim constitutes a proof of loss for purposes of ORS 742.061.

16 6.

17 Insurer accepted the claim but has yet to settle the claim.

18 **CLAIM FOR RELIEF** 19 **COUNT ONE** 20 **(BREACH OF CONTRACT)**

21 7.

22 Plaintiff realleges paragraphs 1 through 6.

23 8.

24 Insurer has breached the Policy by failing to settle Rustom’s claim as required by the
25 Policy.

26 9.

Rustom has satisfied all his obligations under the Policy.

10.

As a result of the Insurer's breach, Rustom has been damaged in the amount to be proven at trial, in the approximate amount of \$800,000, plus prejudgment interest on that amount for the rate of 9% per annum from the date Rustom purchased the Vessel. The exact amount of damages is still under investigation. Rustom intends to amend this complaint to allege a more accurate amount of damages after the investigation is complete.

**COUNT TWO
(VIOLATION OF ORS 742.061)**

11.

Plaintiff realleges paragraph 1 through 6 and 8 through 10 above.

12.

Insurer failed to settle Rustom's claim within six months of receiving proof of loss as required by ORS 742.061. Pursuant to ORS 742.061, and in addition to the damages alleged in paragraph 10, Rustom is entitled to recover his attorney fees and costs incurred in pursuing this claim.

WHEREFORE, Plaintiff prays for relief as follows:

- (a) A judgment in Plaintiff's favor and against Defendants awarding damages in the amount of \$800,000;
- (b) A judgment in Plaintiff's favor and against Defendants awarding Plaintiff prejudgment interest on the amount of \$800,000 at the rate of 9% per annum;
- (c) A judgment in Plaintiff's favor and against Defendants awarding Plaintiff his reasonable attorney fees and costs pursuant to ORS 742.061; and

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1 (d) For such other relief deemed just and equitable by this Court.

2 DATED this 21st day of May, 2018.

3 GARVEY SCHUBERT BARER, P.C.

4 By s/ Patrick J. Conti

5 Patrick J. Conti, OSB #141308

6 E-Mail: pconti@gsblaw.com

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9 Trial Attorney:

10 Paul H. Trincherro, OSB #014397

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14 GSB:9412696.4

IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF MULTNOMAH

FARES RUSTOM,

Plaintiff,

v.

ACE AMERICAN INSURANCE
COMPANY, a Pennsylvania corporation; and
CHUBB INSURANCE SOLUTIONS
AGENCY INC., a Delaware corporation,

Defendants.

Case No.

SUMMONS

**To: Chubb Insurance Solutions Agency Inc., c/o CT Corporation System, 780
Commercial Street SE, Suite 100, Salem, Oregon 97301**

NOTICE TO DEFENDANT:

READ THESE PAPERS CAREFULLY!

You must “appear” in this case or the other side will win automatically. To “appear” you must file with the court a legal document called a “motion” or “answer.” The “motion” or “answer” must be given to the court clerk or administrator within 30 days along with the required filing fee. It must be in proper form and have proof of service on the plaintiff’s attorney or, if the plaintiff does not have an attorney, proof of service on the plaintiff.

If you have questions, you should see an attorney immediately. If you need help in finding an attorney, you may contact the Oregon State Bar’s Lawyer Referral Service online at

1 http://www.oregonstatebar.org or by calling (503) 684-3763 (in the Portland metropolitan area)
2 or toll-free elsewhere in Oregon at (800) 452-7636.

3 DATED this 21st day of May, 2018.

4 GARVEY SCHUBERT BARER, P.C.

5
6 By s/ Patrick J. Conti

Patrick J. Conti, OSB #141308

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IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF MULTNOMAH

FARES RUSTOM,

Plaintiff,

v.

ACE AMERICAN INSURANCE
COMPANY, a Pennsylvania corporation; and
CHUBB INSURANCE SOLUTIONS
AGENCY INC., a Delaware corporation,

Defendants.

Case No.

SUMMONS

**To: Ace American Insurance Company, c/o CT Corporation System, 780
Commercial Street SE, Suite 100, Salem, Oregon 97301**

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3 DATED this 21st day of May, 2018.

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18CV20543

IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF MULTNOMAH

FARES RUSTOM,

Plaintiff,

v.

ACE AMERICAN INSURANCE
COMPANY, a Pennsylvania corporation; and
CHUBB INSURANCE SOLUTIONS
AGENCY INC., a Delaware corporation,

Defendants.

Case No. 18CV20543

SUMMONS

**To: Ace American Insurance Company, c/o Patti Dietz, 12909 SW 68th Parkway,
Suite 450, Portland, OR 97223**

NOTICE TO DEFENDANT:

READ THESE PAPERS CAREFULLY!

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1 http://www.oregonstatebar.org or by calling (503) 684-3763 (in the Portland metropolitan area)
2 or toll-free elsewhere in Oregon at (800) 452-7636.

3 DATED this 8th day of June, 2018.

4 GARVEY SCHUBERT BARER, P.C.

5
6 By s/ Patrick J. Conti

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AFFIDAVIT OF SERVICE

State of Oregon

County of Multnomah

Circuit Court

Case Number: 18CV20543

Plaintiff(s):
FARES RUSTOM

vs.

Defendant(s):
ACE AMERICAN INSURANCE COMPANY, a Pennsylvannia corporation; and CHUBB INSURANCE SOLUTIONS AGENCY, INC., a Delaware corporation

For:
Patrick Conti
Garvey Schubert Barer
121 S.W. Morrison Street
Portland, OR 97204-3141

Received by Sound PS / Portland PS on the 21st day of May, 2018 at 4:06 pm to be served on **CHUBB INSURANCE SOLUTIONS AGENCY, INC. C/O CT CORPORATION SYSTEM, 780 COMMERCIAL STREET SE, SUITE 100, SALEM, OR 97301.**

I, John Jerman, being duly sworn, depose and say that on the **22nd day of May, 2018 at 9:15 am, I:**

SERVED the within named Corporation / Business by delivering the **SUMMONS AND COMPLAINT (BREACH OF CONTRACT)** to the office of the Registered Agent for the within named Corporation / Business and accepted by: **RYLYNN POOLE** as **SERVICE OF PROCESS TECHNICIAN** who is the Person in Charge at the address of: **780 COMMERCIAL STREET SE, SUITE 100, SALEM, OR 97301** the Registered Agent for the within named Corporation / Business.

Description of Person Served: Age: 45, Sex: M, Race/Skin Color: White, Height: 6'1", Weight: 200, Hair: Light Brown, Glasses: Y

AFFIDAVIT OF SERVICE For 18CV20543

I certify that I am over the age of 18, have no interest in the above action, and am a Process Server, in good standing, in the judicial circuit in which the process was served.

County of Multnomah

Subscribed and Sworn to before me on the 22nd day of May, 2018 by the affiant who is personally known to me.

NOTARY PUBLIC

John Jerman
Process Server

Sound PS / Portland PS
1750 S.W. Skyline Blvd., Suite 8
Portland, OR 97221
(503) 296-4889

Our Job Serial Number: JDJ-2018000511
Ref: 39865/00500

AFFIDAVIT OF SERVICE

State of Oregon

County of Multnomah

Circuit Court

Case Number: 18CV20543

Plaintiff(s):
FARES RUSTOM

vs.

Defendant(s):
ACE AMERICAN INSURANCE COMPANY, a Pennsylvania corporation; and CHUBB INSURANCE SOLUTIONS AGENCY, INC., a Delaware corporation

For:
Patrick Conti
Garvey Schubert Barer
121 S.W. Morrison Street
Portland, OR 97204-3141

Received by Sound PS / Portland PS on the 21st day of May, 2018 at 4:06 pm to be served on **ACE AMERICAN INSURANCE COMPANY C/O CT CORPORATION SYSTEM, 780 COMMERCIAL STREET SE, SUITE 100, SALEM, OR 97301.**

I, John Jerman, being duly sworn, depose and say that on the **22nd day of May, 2018 at 9:15 am, I:**

SERVED the within named Corporation / Business by delivering the **SUMMONS AND COMPLAINT (BREACH OF CONTRACT)** to the office of the Registered Agent for the within named Corporation / Business and accepted by: **RYLNNE POOLE** as **SERVICE OF PROCESS TECHNICIAN** who is the Person in Charge at the address of: **780 COMMERCIAL STREET SE, SUITE 100, SALEM, OR 97301** the Registered Agent for the within named Corporation / Business.

Description of Person Served: Age: 45, Sex: M, Race/Skin Color: White, Height: 6'1", Weight: 200, Hair: Light Brown, Glasses: Y

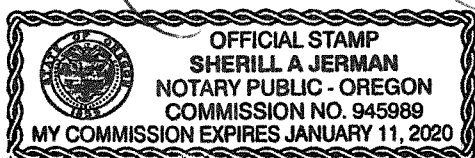
AFFIDAVIT OF SERVICE For 18CV20543

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County of Multnomah

Subscribed and Sworn to before me on the 22nd day of May, 2018 by the affiant who is personally known to me.


NOTARY PUBLIC



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John Jerman
Process Server

Sound PS / Portland PS
1750 S.W. Skyline Blvd., Suite 8
Portland, OR 97221
(503) 296-4889

Our Job Serial Number: JDJ-2018000510
Ref: 39865/00500

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6 IN THE CIRCUIT COURT OF THE STATE OF OREGON
7 FOR THE COUNTY OF MULTNOMAH
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9 FARES RUSTOM,

10 Plaintiff,

11 v.

12 ACE AMERICAN INSURANCE
13 COMPANY, a Pennsylvania corporation; and
14 CHUBB INSURANCE SOLUTIONS
15 AGENCY INC., a Delaware corporation,

16 Defendants.

Case No. 18CV20543

PROOF OF SERVICE OF SUMMONS
AND COMPLAINT ON ACE AMERICAN
INSURANCE COMPANY

17 Please take notice that on the 8th day of June, 2018, defendant Ace American Insurance
18 Company was served with the Summons and Complaint in the above-referenced case. Attached
19 hereto as Exhibit A is the proof of service signed by the process server.

20 DATED this 12th day of June, 2018.

GARVEY SCHUBERT BARER, P.C.

21 By s/ Patrick J. Conti

22 Patrick J. Conti, OSB #141308

23 E-Mail: pconti@gsblaw.com

24 Telephone: (503) 228-3939

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26 Trial Attorney:

Paul H. Trincherro, OSB #014397

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Page 1 – PROOF OF SERVICE

GARVEY SCHUBERT BARER, P.C.

eleventh floor
121 s.w. morrison street
portland, oregon 97204-3141
503 228 3939

Exhibit A, Page 15 of 18

I hereby certify that I made service of the foregoing summons upon the individuals and other legal entities to be served, named below, by delivering or leaving true copies of the summons and the complaint mentioned therein, certified to be such by the attorney for the plaintiff, as follows:

Personal Service Upon Individual(s)

Upon _____, by delivering such true copies to _____, personally and in person, at _____, on _____, at _____ o'clock ____ M.

Upon _____, by delivering such true copies to _____, personally and in person, at _____, on _____, at _____ o'clock ____ M.

Substituted Service Upon Individual(s)*

Upon _____, by delivering such true copies at his/her dwelling house or usual place of abode, to-wit: _____, to _____, who is a person 14 years of age or older and a member of the household of the person served on _____, at _____ o'clock ____ M.

Upon _____, by delivering such true copies at his/her dwelling house or usual place of abode, to-wit: _____, to _____, who is a person 14 years of age or older and a member of the household of the person served on _____, at _____ o'clock ____ M.

Office Service Upon Individual(s)*

Upon _____, at the office which he/she maintains for the conduct of business at _____, by leaving such true copies with _____, the person who is apparently in charge, on _____, during normal working hours, at _____ o'clock, ____ M.

Mail Service Upon Individual(s)**

Upon _____, by mailing such true copies to him/her by first class mail and ALSO by (check one): ☐ certified or registered mail with return receipt requested ☐ express mail.

Service Upon Tenant(s) of a Mail Agent***

Upon _____, by delivering such true copies to _____, a person apparently in charge of _____, which is the place where the mail agent receives mail for the tenant(s), its address being _____, on _____, at _____ o'clock, ____ M. Prior to effecting such service, I made diligent inquiry but could not find the tenant(s) so served.

Service on Corporations, Limited Liability Companies, Limited Partnerships, General and Limited Liability Partnerships or Unincorporated Associations

Upon Ace American Insurance, by _____, (NAME OF CORPORATION, LIMITED LIABILITY COMPANY, ETC.)

(a) delivering such true copies, personally and in person, to Thais Lemax who is a/the agent (Specify registered agent, officer (by title), managing member, general partner, etc.) thereof; OR

(b) leaving such true copies with _____, the person who is apparently in charge of the office of _____, who is a/the _____

(Specify registered agent, officer (by title) director, general partner, managing agent, etc.) thereof:

at 12909 SW 68th Pkwy #450 Tigard Oregon 97229, on June 8th 2018, at 4:20 o'clock P. M.

Dated _____

By _____ Sheriff

By _____ Deputy

I further certify that I am a competent person 18 years of age or older and a resident of the state of service or the State of Oregon, and that I am not a party to nor an officer, director or employee of, nor attorney for any party, corporate or otherwise; that the person, firm or corporation served by me is the identical person, firm or corporation named in the action.

Dated 6-8-18

Danette E McCordle
SIGNATURE

Danette E McCordle
TYPE OR PRINT NAME

PO Box 301505
ADDRESS

Portland, Or. 97294
CITY STATE ZIP PHONE

The signature lines on the left should be used only by an Oregon county sheriff or deputy. All other servers should complete the certification on the right. The Proof of Service above contains most, but not all, of the permissible methods of service. For example, this form does not include proof of service upon a minor or incompetent person. See ORCP 7 D for permissible service methods with respect to particular parties.

*Where substituted or office service is used, the plaintiff, as soon as reasonably possible, shall cause to be mailed, by first class mail, true copies of the summons and the complaint to the defendant at defendant's dwelling house or usual place of abode, together with a statement of the date, time and place at which such service was made. Use S-N Form No. 1149, Notice of Substituted or Office Service, or the equivalent.

**Service by mail may be made when required or allowed by ORCP 7 or by statute, except as otherwise permitted. If the summons and complaint are mailed, this certification may be made either by the person completing the mailing or by the attorney for any party, stating the circumstances of mailing and including the return receipt as an attachment. An attorney completing the mailing should delete "nor attorney for" from the last paragraph of this document. Failure to serve a summons in accordance with ORCP 7 and other applicable rules and statutes may affect or nullify the validity of such service.

***Where service upon a tenant of a mail agent is used, the plaintiff, as soon as reasonably possible, shall cause to be mailed, by first class mail, true copies of the summons and the complaint to the defendant(s) at the address at which the mail agent receives mail for the defendant(s) and to any other mailing address of the defendant(s) then known to the plaintiff, together with a statement of the date, time, and place at which delivery was made.

IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF MULTNOMAH

FARES RUSTOM,

Plaintiff,

v.

ACE AMERICAN INSURANCE
COMPANY, a Pennsylvania corporation; and
CHUBB INSURANCE SOLUTIONS
AGENCY INC., a Delaware corporation,

Defendants.

Case No. 18CV20543

SUMMONS

**To: Ace American Insurance Company, c/o Patti Dietz, 12909 SW 68th Parkway,
Suite 450, Portland, OR 97223**

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2 or toll-free elsewhere in Oregon at (800) 452-7636.

3 DATED this 8th day of June, 2018.

4 GARVEY SCHUBERT BARER, P.C.

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6 By s/ Patrick J. Conti

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